



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,245	01/23/2004	Karl K. Holt	24852.24682	8050

24382 7590 03/29/2006

JOSEPH S. HEINO, ESQ.
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE, WI 53202-6613

EXAMINER

BARRY, CHESTER T

ART UNIT	PAPER NUMBER
----------	--------------

1724

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,245

Applicant(s)

HOLT, KARL K.

Examiner

Chester T. Barry

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-12, 14 - 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-12 and 14-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ 11/23/04

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claims 1 – 3, 5, 7 – 9, 10 – 12, 14, 16 - 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 41-151480 in view of US Pat 6861248 to Dale.

JP 41-151480 describes a wastewater treatment plant in which an air blower intermittently adds air to wastewater held by a holding tank 70 in order to reciprocally carry out aerobic and anaerobic treatment. It is not clear whether element 15a through which air is blown into the wastewater is an air sparger or an air stone. In any event, however, it would have been obvious to have substituted an air stone for an air sparger in view of the recognition in this art that air stones and air spargers are equivalent structures for performing the same submerged air bubble-dispersing function, as shown for example by US Pat 6861248 to Dale.¹ Moreover, to the extent that the document does not show that the blower is powered by electricity, but rather by some other power source, it would have been obvious to have used an electric motor to drive the blower mechanism because of the widespread availability, ease of use, and low cost of electric power. Per claim 2, Fig 6 describes use of two air blowers, tubes, and air spargers. Per claim 3, Fig 6 shows that the two air blowers, tubes, and air spargers are not located at the same location. Per claim 5, it is conventional in industry to package electrical equipment intended for use out-of-doors such that electrical connections are protected from the elements, e.g., rain and moisture, for the purpose of reducing corrosion and/or electrical shorts. Insofar as wastewater treatment holding tanks, such as the type described in the Japanese reference, are typically large volume vessels,

¹ "Air is introduced into the reactor through an air sparger (such as a sintered glass air stone or other bubbling device) at a rate of between zero and 0.20 VVM (volume air

Art Unit: 1724

they are typically stored out-of-doors. Accordingly, it would have been obvious to have placed the electrical connections of the blower in a weatherproof package. Per claim 7, Fig 8 describes inlet wastewater pipe means 1 and inlet wastewater valve means 71 for adding at least any bacteria into the treatment system which are necessarily found in the incoming wastewater stream.

The intended use of a claimed device, even if recited in the claim itself, does not limit the structure of the claimed invention. Accordingly, because it is clear that the claimed remediation apparatus of claim 1 having a pump, tube, and air stone, for example, is merely intended to be used in conjunction with a wastewater treatment system comprised of at least one septic tank having an outlet, a distribution system and a leaching system, wherein effluent drains from the tank outlet through the distribution system and to the leaching system, the "at least one septic tank," its "outlet," the "distribution system," and the "leaching system" do not themselves constitute elements of the claimed remediation apparatus. Note the conspicuous absence of the septic tank, the outlet, the distribution system, and the leaching system from the body of claim 1, for example.

Claims 1, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP11-253942 in view of US Pat 6861248 to Dale.

JP11-253942 describes a wastewater treatment plant in which a submerged air blower adds air to wastewater held by a holding tank. It is not clear whether element 11

per volume reactor per minute), and stirring of the reactor is adjusted so as to lift the

Art Unit: 1724

through which air is blown into the wastewater is an air sparger or an air stone. In any event, however, it would have been obvious to have substituted an air stone for an air sparger in view of the recognition in this art that air stones and air spargers are equivalent structures for performing the same submerged air bubble-dispersing function, as shown for example by US Pat 6861248 to Dale.² Moreover, to the extent that the document does not show that the blower is powered by electricity, but rather by some other power source, it would have been obvious to have used an electric motor to drive the blower mechanism because of the widespread availability, ease of use, and low cost of electric power.

Insofar as water is known to corrode electrical connections, it would have been obvious to have packaged the electrically-powered air blower in a watertight housing to prevent electrical shorts and the like.

Claims 6, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 41-151480 in view of US Pat 6861248 to Dale, as applied to claim 1 and claim 10, respectively, above, further in view of US 20030113908 A1. This published patent application shows that PVC tube material was recognized in a water aeration art as a suitable material from which air tubes can be made. It would have been obvious to have made the air tubes described in the Japanese reference from any material

cells gently from the bottom of the reactor.”

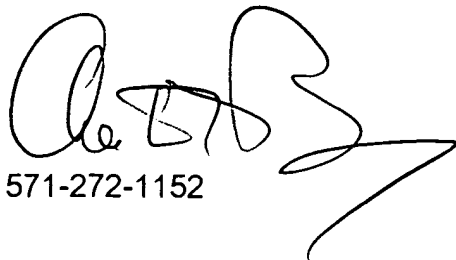
² “Air is introduced into the reactor through an air sparger (such as a sintered glass air stone or other bubbling device) at a rate of between zero and 0.20 VVM (volume air per volume reactor per minute), and stirring of the reactor is adjusted so as to lift the cells gently from the bottom of the reactor.”

recognized as being suitable for carrying air under pressure for the purpose of aerating a liquid, as shown, for example, by US 20030113908 A1.

Claims 19 - 20 are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



571-272-1152